



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MDD/149291

PRELIMINARY RECITALS

Pursuant to a petition filed March 06, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the disability Determination Bureau (DDB) in regard to Medical Assistance, a hearing was held on June 18, 2013, at Waukesha, Wisconsin.

The issue for determination is whether the Division of Hearings and Appeals has authority to make a determination the merits of Petitioner's Medicaid disability based application where there is a Social Security Administration denial of disability within 12 months of the Medicaid application.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: No Appearance, submission of medical file

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Waukesha County.
2. Petitioner applied for Medicaid on or about July 28, 2012. The Disability Determination Bureau (DDB) notified Petitioner that it had concluded that he was not disabled. Petitioner sought reconsideration, but the DDB affirmed its determination.

3. Prior to or concurrently with the Medicaid application, Petitioner also applied for Social Security disability benefits and/or Supplemental Security Income (SSI). Those benefits were denied in July 2012 and again in December 2012, with findings of no disability.
4. The Petitioner does not allege any new medical impairment different than the impairments considered in the Social Security decision

DISCUSSION

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat. § 49.47(4)(a)4. Because the standards are the same, a finding of no disability for Social Security/SSI purposes made within 12 months of the Medicaid application is binding on a State Medicaid (MA) agency. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. None of the exceptions apply here. See 42 C.F.R. § 435.541(a); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Because Petitioner has been denied Social Security/SSI following a finding of no disability, I must conclude that Petitioner is not eligible for Medicaid. Quite frankly, no substantive hearing has really been held here. The above was all explained to Petitioner at the time of the hearing, making it apparent that a hearing served little purpose.

I do note for Petitioner, however, that there are significant changes occurring in health care insurance coverage soon and encourage her to check with her county agency in the next 2 or 3 months regarding any changes in State Medicaid programs and to also note the Federal health insurance exchanges which are expected be available online as of October 1, 2013 to offer health care options under the Affordable Care Act.

CONCLUSIONS OF LAW

Petitioner is not disabled as that term is used for Medicaid purposes pursuant to Wis. Stat. § 49.47(4).

THEREFORE, it is

ORDERED

That the petition for review is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of June, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 26, 2013.

Waukesha County Health and Human Services
Disability Determination Bureau